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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,417	08/05/2003	Cleatus Lewis	LIU116361	7310
26389	7590	10/01/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			KEENAN, JAMES W	
		ART UNIT	PAPER NUMBER	
		3652		

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,417	LEWIS ET AL. 	
	Examiner	Art Unit	
	James Keenan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) 8 and 9 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/12/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanbury et al (US 5,391,041) in view of Tidrick et al (US 5,871,329), both cited by applicant.

Stanbury shows a wheelchair ramp assembly including platform 14 mounted to a vehicle to reciprocate between a raised position flush with the floor thereof and a recessed position, ramp 10 coupled to a reciprocating mechanism for actuation between deployed and stowed positions in response to a force, wherein the platform is located in a plane below the floor when the ramp is stowed, and a "float down" mechanism which counterbalances the weight of the ramp during movement from a vertical position to either the stowed or deployed positions. An operator can manually move the ramp in the event of a power failure without having to overcome the hydraulic forces of the power actuator. However, the counterbalance assembly does not provide any assistance for the manual mode.

Tidrick shows a wheelchair ramp assembly including a platform floor, ramp 10, and reciprocating assembly 14 disposed between the ramp and platform which counterbalances the weight of the ramp through the use of energy storage device 53. This allows an operator to easily maneuver the ramp in the event of power loss.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Stanbury by utilizing a counterbalance assembly to fully assist in reciprocating the ramp between the deployed and stowed positions, as suggested by Tidrick, as this would enable an operator to more easily move the ramp in the event of a power failure.

3. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanbury et al in view of Tidrick et al, as applied to claims 1-2 above, and further in view of Calzone (US 5,145,310, cited by applicant).

Stanbury as modified does not show a preload assembly.

Calzone shows a vehicle ramp assembly including a counterbalance mechanism comprising a torsion assembly coupled to a preload assembly 24 for varying the amount of assistance provided by the counterbalance mechanism.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Stanbury by adding a preload assembly, as suggested by Calzone, to enable the amount of assistance provided to ramps of varying size and weight to be adjusted.

Re claims 4-7, Stanbury as modified does not show the counterbalance assembly to include a torsion assembly comprising a torsion rod extending between fixed and rotating ends of the torsion assembly. Calzone, however, does show the torsion assembly to include torsion springs and bearing surfaces 38 coupled to the ramp which move in a predetermined path as the ramp reciprocates between the stowed and

deployed positions to contact an “actuating arm” 22 of the torsion assembly, causing twist thereof.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Stanbury et al by utilizing a torsion assembly having the noted features, as suggested by Calzone, since this would be an alternate equivalent design expediency, the use of which in the apparatus of Stanbury would neither require undue experimentation nor produce unexpected results. To have utilized a torsion bar instead of torsion springs would have been a obvious design choice, it being noted that various vehicle components such as trunk lids, tailgates, etc., frequently have torsion bars to assist in opening or closing same.

4. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. This is a continuation of applicant's earlier Application No. 09/747,024. All claims are drawn to the same invention claimed in the earlier application (i.e., claims 18-26) and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Keenan
Primary Examiner
Art Unit 3652



jwk
9/27/04